



## RESOLUTION

Whereas, The Commissioner Court of Blanco County finds it in the best interest of the citizens of Blanco County to execute an Interlocal Agreement between Blanco County and the Capital Area Council of Governments (CAPCOG) for the reimbursement of funds from the Statewide Emergency Radio Interoperability (SERI) program; and

Whereas, the funding from this program will reimburse Blanco County for the majority of the cost for the equipment and expenditures that will be incurred through Motorola for the installation of radio equipment supporting the Western Regional Radio System; and

Whereas, The Commissioner Court of Blanco County designate the County Judge of Blanco County as our authorized official and is given the power to enter into this interlocal agreement with CAPCOG on the behalf of Blanco County.

Now Therefore, be it Resolved that The Commissioner Court of Blanco County approves the County Judge of Blanco County as the authorized official for execution of the interlocal agreement between CAPCOG and Blanco County for the reimbursement of funds through the SERI program.

Signed: \_\_\_\_\_  
Brett G. Bray, County Judge

Passed and Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020

**INTERLOCAL AGREEMENT BETWEEN  
THE CAPITAL AREA COUNCIL OF GOVERNMENTS AND  
BLANCO COUNTY REGARDING THE  
STATEWIDE EMERGENCY RADIO INTEROPERABILITY GRANT**

**Section 1. Parties and Purpose**

1.1. The Capital Area Council of Governments (CAPCOG) is a regional council of governments and political subdivision of the State of Texas organized and operating in accordance with Regional Planning Act of 1965, as amended.

The Public Safety Office of the Office of the Governor solicited applications for projects that support state and regional efforts to improve or sustain interoperable emergency radio infrastructure. Eligible applicants were state agencies and Councils of Government.

Projects must enhance current capabilities or address capability gaps identified by the Texas Department of Public Safety (DPS) or Texas Interoperable Communications Coalition (TxICC) in either the Texas Statewide Communications Interoperability Plan (SCIP) or DPS Report on Interoperable Communications to the Texas Legislature. The planned expenditures must be submitted to and receive validation from the Statewide Interoperability Coordinator (SWIC) prior to purchase.

CAPCOG has been awarded \$1,077,984.78 as a grant under the Statewide Emergency Radio Interoperability (SERI) program from the Office of the Governor Public Safety Office, Homeland Security Division for the purchase and installation of communication equipment on behalf of Blanco County to improve the region's ability to communicate along the southwestern border. SERI projects are to support state and regional efforts to improve or sustain interoperable emergency radio infrastructure.

1.2 This Interlocal Agreement (hereinafter, this "Agreement") is entered into between CAPCOG and COUNTY pursuant to Texas Government Code chapter 791 in order to compensate the COUNTY in procuring and implementing the Regional Interoperability Project as set out in the SERI grant award.

1.3. For purposes of carrying out CAPCOG's duties and obligations under this agreement, the parties understand agree that references to CAPCOG includes its employees, officers, directors, volunteers, agents (including the Capital Area Council of Governments – CAPCOG) and their representatives, individually, officially, and collectively.

1.4. CAPCOG and Blanco County collectively are referred to as "Parties" in this document.

**Section 2. Scope of Services**

2.1. The County agrees to complete the procurement and installation of engineering services, dispatch console, antenna, base radio, and microwave radio equipment in Blanco County.

2.2 The County will be responsible for managing the project in accordance with the work program submitted to CAPCOG and incorporated into this agreement.

2.3. Upon completion and final acceptance, Blanco County agrees to assume ownership of the interoperable communications equipment purchased and to be responsible for the support and maintenance of the project in compliance with the terms of the Statewide Emergency Radio Interoperability (SERI) program and state and federal law.

2.4. Failure on the part of the County to comply with the conditions set forth in this Agreement shall be the basis for termination of the Agreement and recovery of any unexpended or inappropriately expended funds

### **Section 3. Agreement Price and Payment Terms**

3.1. CAPCOG agrees to reimburse the County for the allowable and documentable costs to perform the services in accordance with the work program submitted and approved by CAPCOG **not to exceed \$1,022,879**, subject to the following limitations:

- a. CAPCOG is not liable for expenditures made in excess of the authorized budget of the agreed upon work plan and funding guidelines, including prohibited activities and expense categories as defined by the Office of the Governor.
- b. CAPCOG is not liable for any costs incurred by County in the performance of this agreement which have not been billed to CAPCOG within thirty (30) days following termination of this agreement.
- c. CAPCOG is not liable to County for costs incurred or performance rendered by County for costs incurred by County before commencement of this Agreement or after termination of this Agreement.

3.2. The County agrees to invoice CAPCOG for reimbursable expenses under this agreement, to include appropriate documentation for equipment purchases, delivered, and installed as well as services performed. Requests for reimbursement may be submitted no more frequently than indicated in Attachment A, Deliverables, of this Agreement

3.3 In general, expenditure documentation to be maintained by the County should be whatever is necessary to show that the work was indeed performed and that the expense was, in fact, incurred. In addition, the documentation should also support the fact that the expenditure was reasonable and necessary to this Agreement. Documents that should be maintained, as appropriate for the expense, include but are not limited to the following:

- a. Salary/Wages – Time sheets that have been signed and approved.
- b. Travel – Documentation which, at a minimum, is consistent with State Travel Regulations. The purpose of the travel should be documented and supported with actual receipts for hotel accommodations, public transportation receipts, airline receipts, etc.
- c. Equipment – Purchase orders, invoices, and canceled checks.

- d. Supplies – Purchase orders (if issued), invoices, and canceled checks.
- e. Contractual – Purchase orders (if issued), invoices, and canceled checks, plus documentation that the costs were reasonable and necessary. The same standards should be applicable to contractors.

3.3. The County agrees to certify each invoice as follows:

Blanco County certifies that this invoice is correct and complete, that the amount requested has not been received, and the County understands that the invoice will become a claim against public funds under CAPCOG's control.

3.4. If all documentation is complete, CAPCOG agrees to pay the invoice within 30 days after determining the invoice is correct and complete. Invoices requesting payment must be delivered to:

Homeland Security Division  
Capital Area Council of Governments  
6800 Burleson Road, Building 310, Ste. 165  
Austin, Texas 78744; and copied to  
[finance@capcog.org](mailto:finance@capcog.org)

3.5. The County agrees that CAPCOG may withhold payment of the final invoice amount pending confirmation that the project is substantially complete.

3.6. Change orders to the project must have approval in advance by CAPCOG and the Public Safety Office of the Office of the Governor before purchase or authorization to proceed may be given to the County or its vendor.

#### **Section 4. Effective Date and Term of Agreement**

4.1. This Agreement takes effect on the date it is signed on behalf of CAPCOG, and it ends, unless sooner terminated under Sections 11 or 12, on August 31, 2022.

#### **Section 5. Rights and Duties**

5.1. The County agrees to hold harmless CAPCOG from and against any and all claims, liens, proceedings, actions or causes of action, other than claims based wholly on the negligence of, fault of, or breach of contract by CAPCOG and shall name CAPCOG (including those representatives and agents listed in section 1.3 as additional insured under the County's general liability insurance policy or membership agreement in any government risk pool or other similar entity with a duty to provide a defense, and which is provided by policy or membership agreement so that CAPCOG (including those representatives and agents listed in section 1.3 above) may seek coverage upon demand by CAPCOG (including those representatives and agents listed in section 1.3 above), in the event of a covered claim.

5.2. The County agrees to waive any duty CAPCOG owes County by virtue of this agreement in the event any act, event or condition adversely impacts the performance of, or adversely affects the ability of CAPCOG to perform any obligation under this agreement and if

such act, event or condition, in light of any circumstances is beyond the reasonable control and is not a result of the willful or negligent act, error, omission or failure to exercise reasonable diligence on the part of CAPCOG, such action or inaction shall not be construed as a breach of this agreement or a willful or negligent act, error, omission or lack of reasonable diligence of CAPCOG. Circumstances included above, by way of example only, are:

- an act of God, landslide, earthquake, fire, explosion, flood, hurricane, tornado, sabotage or similar occurrence, acts of a public enemy, terrorism, extortion, war, blockade, insurrection, riot or civil disturbance;
- the failure of any appropriate governmental agency or private utility to provide and maintain utilities;
- any failure of title to the facilities or any placement or enforcement of any lien, charge or encumbrance on the facilities or any improvement thereon that is not consented to in writing by, or arising out of any action or agreement entered into by, either party to the Agreement;
- the inability of CAPCOG and its subcontractors to gain and maintain access to all areas of the facilities and/or adjoining the facilities where work is required to be performed hereunder;
- the preemption, confiscation, diversion, destruction, or other interference by, on behalf, or with authority of a governmental body relating to a declared or asserted public emergency or any condemnation or other taking by eminent domain or similar action, in the possession of property, equipment or materials located at the facilities, or in the performance of the services to be performed by CAPCOG hereunder;
- strikes, work stoppages, or labor disputes affecting CAPCOG and any subcontractor (excluding material suppliers) of CAPCOG;
- with respect to CAPCOG, damage to the facilities caused by third parties not related to or under the control of CAPCOG, including, but not limited to, contractors and subcontractors for CAPCOG, and;
- the failure of any CAPCOG subcontractor or supplier to furnish services, materials or equipment on the dates agreed to, but only if such failure is the result of an event that would constitute Force Majeure if it affected CAPCOG directly, and CAPCOG is not able after exercising all reasonable efforts to timely obtain substitutes.

## **Section 6. Compliance with Applicable Law and Policy**

6.1. County agrees to comply with all APPLICABLE LAW and POLICY in carrying out this Agreement, including any purchases or reimbursement requests made hereunder. APPLICABLE LAW and POLICY include but are not limited to the current *Uniform Grant Management Standards* (Governor's Office of Budget and Planning); the *Guide to Grants* provided by the Public Safety Office of the Office of the Governor; and SWIC Review Steps (*Nov 2017 edition*).

## **Section 7. Other Conditions of Funding**

7.1 Reporting. The County shall prepare and submit to CAPCOG progress reports on the schedule indicated in Attachment A, Deliverables.

- a. The County progress reports shall contain descriptions of activities and costs for CAPCOG to ensure that the provisions of this Agreement are being complied with. The County shall comply with any reasonable request by CAPCOG for additional information on activities conducted in order for CAPCOG to adequately monitor the County's progress in completing the requirements of and adhering to the provisions of this Agreement.
- b. The County will certify in writing to CAPCOG through a final progress report the satisfactory completion of all activities and deliverables required under this Agreement.
- c. The reporting requirements of this Section survive the ending or early termination of this Agreement.

7.2. County will comply with completion of the prescribed Post-Award Procurement Questionnaire as required by the Public Safety Office of the Office of the Governor for all procurements expected to exceed \$250,000. County will coordinate with CAPCOG on submittal of the Questionnaire. In addition, the County acknowledges that the Office of the Governor may require submittal of additional supporting documentation on a case-by-case basis.

7.3. County will comply with the requirement that any communications equipment or technologies purchased must comply with the interoperability standards established within the Texas Statewide Communications Interoperability Plan (TSCIP). All radios purchased must: a) follow the Statewide Radio ID Management Plan; b) be programmed following the Statewide Interoperability Channel Plan, and c) include encryption options capable of Advanced Encryption Standard (AES) encryption, IF encryption is being purchased. County must coordinate with CAPCOG to obtain Statewide Interoperability Coordinator (SWIC) review of planned equipment purchases when using grant funds to buy mobile radios, portable radios, or repeaters. radio equipment prior to purchase.

7.4. PROHIBITION ON CERTAIN SERVICES OR EQUIPMENT: County is advised that this grant includes line items that may contain services or equipment expressly prohibited under the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018). This act prohibits the purchase of certain telecommunications and video surveillance services or equipment from specified entities.

7.5. Title to and Management of Real Property and Equipment. County must adhere to their published purchasing policies and procedures or CAPCOG's where no such policies and procedures have been approved and published.

- a. The County may develop and use their own property management systems, which must conform with all applicable federal, state, and local laws, rules and regulations.
- b. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of the property, who holds title, the acquisition date, and the cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- c. A physical inventory of all equipment acquired or replaced under this Agreement shall be conducted no less frequently than once every two years and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the County shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The County shall develop and carry out a program of property maintenance as necessary to keep both originally acquired and any replaced property in good condition, and to utilize proper sales procedures to ensure the highest possible return, in the event such property is sold.
- d. Certain types of equipment are classified as "controlled assets" and are subject to annual revision. In accordance with the UGMS, the County should contact the Texas Comptroller of Public Accounts' property accounting staff or review the Comptroller's state Property Accounting User Manual available on the Internet, for the most current listing.
- e. When, during the useful life of property acquired with grant funds under this Agreement by the County and with a current per-unit fair market value of \$5,000 or more, the property is no longer needed for the originally authorized purpose, County agrees to request disposition instructions from the CAPCOG or, if CAPCOG is no longer administering a Homeland Security program, the Office of the Governor. CAPCOG shall, in turn, request authorization from the Office of the Governor to provide disposition instructions to the County.

### **Section 8. Independent Contractor, Assignment and Subcontracting**

8.1. County is not an employee or agent of CAPCOG, but furnishes goods and services under this Agreement solely as an independent contractor.

8.2. County may not assign its rights or subcontract its duties under this Agreement without the written consent of CAPCOG. An attempted assignment or subcontract in violation of this Section 8.2 is void.

8.3. If CAPCOG consents to County's subcontracting of duties, each subcontract is subject to all of the terms and conditions of this Agreement, and County agrees to furnish a copy of this Agreement to each of its subcontractors.

## **Section 9. Records and Monitoring**

9.1. County agrees to maintain financial and other records adequate to document its performance, costs and receipts under this Agreement. County agrees to maintain these records at County's offices.

9.2. Subject to the additional requirement of Section 9.3, County agrees to preserve the records for three years following the closure of the most recent audit report or submission of the final financial status report if the audit report requirement has been waived.

9.3. If an audit or information in the records is disputed or the subject of litigation, County agrees to preserve the records until the dispute or litigation is finally concluded, regardless of the expiration or early termination of this Agreement.

9.4. CAPCOG is entitled to inspect and copy, during normal business hours at County's offices where they are maintained, the records maintained under this Agreement for as long as they are preserved. CAPCOG is also entitled to visit County's offices, talk to its personnel, and audit its records, all during normal business hours, to assist in evaluating its performance under this Agreement. The Public Safety Office of the Office of the Governor is accorded these same rights.

9.5. CAPCOG agrees to notify County at least 24 hours in advance of any intended visit under this Section 9. Upon receipt of CAPCOG's notice, County agrees to notify the appropriate department(s) specified in the notice.

## **Section 10. Nondiscrimination and Equal Opportunity**

10.1. County shall not exclude anyone or entity from participating in County's duties under this Agreement, unlawfully deny benefits under the Agreement, or otherwise unlawfully discriminate against anyone in carrying out this Agreement because of race, color, religion, sex, sexual orientation, gender identity, age, disability, handicap, veteran status, or national origin.

10.2. If County procures goods or services with fund made available under this Agreement. County agrees to comply with CAPCOG's affirmative action procurement policy.

## **Section 11. Suspension or Termination of Agreement for Unavailability of Funds**

11.1. County acknowledges that CAPCOG is a governmental entity without taxing power and agrees that CAPCOG may suspend its payment obligations under or terminate this Agreement in whole or part if CAPCOG learns that funds to pay for all or part of the goods or services will not be available at the time of delivery or performance. If CAPCOG suspends or terminates only part of this Agreement for unavailability of funds, County agrees to perform the unsuspended or unterminated part if CAPCOG so requests.

11.2. CAPCOG suspends or terminates this Agreement for unavailability of funds by giving County notice of the suspension or termination, as soon as it learns of the funding unavailability, specifying the suspension or termination date, which may not be fewer than 11



business days from the notice date, and describing the part or parts suspended or terminated. The Agreement is suspended or terminates on the specified termination date.

11.3. If this Agreement is suspended or terminated for unavailability of funds under this Sec.11, County is entitled to compensation for the services it performed before it received notice of suspension or termination. However, CAPCOG is not liable to County for costs it paid or incurred under this Agreement after or in anticipation of its receipt of notice of suspension or termination.

## **Section 12. Termination for Breach of Contract**

12.1. If CAPCOG or County breaches a material provision on this Agreement, the other may notify the breaching party, describing the breach and demanding corrective action. The breaching party has five business days from its receipt of the notice to correct the breach, or to begin and continue with reasonable diligence and in good faith to correct the breach, which effort will be described in detail in a correction letter delivered to CAPCOG within five business days from the receipt of the notice to correct. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, the non-breaching party may terminate the Agreement or may invoke the dispute resolution process of Section 12.

12.2. If this Agreement is terminated under Section 12, CAPCOG and County are each entitled to compensation for any performance undertaken pursuant to the terms of this Interlocal Agreement, where such performance was provided to the other before receiving notice of the termination. However, neither CAPCOG nor County is liable to the other for costs it paid or incurred under this Agreement made after or in anticipation of its receipt of notice of termination.

12.3. Termination for breach under Section 12.1 does not waive either party's claim for direct damages resulting from the breach, and both CAPCOG and County among other remedies may withhold from compensation owed the other an amount necessary to satisfy its claim against the other. Any such claim(s) shall survive the termination of this agreement by either party for the purpose of enforcement.

12.4. The termination of this Agreement either under Section 11 or under this Section 12 does not affect the County's duty:

- To repay CAPCOG for expenditures in violation of APPLICABLE LAW or POLICY in accordance with Section 6.
- To preserve its records and permit inspection, copying and auditing of its records and visitation of its premises and personnel under Section 9.

## **Section 13. Dispute Resolution**

13.1. The parties desire to resolve disputes arising under this Agreement without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute between themselves. To this end, the parties agree not to sue one another, except

to enforce compliance with this Section 11, toll the statute of limitations or seek an injunction, until they have exhausted the procedures set out in the Section.

13.2. At the written request of either party, each party shall promptly appoint one non-lawyer representative to negotiate informally and in good faith to resolve any dispute arising under this Agreement. The representatives appointed shall promptly determine the location, format, frequency and duration of the negotiations.

13.3. If the representatives cannot resolve the dispute within 30 calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Dispute Resolution Center of Austin for mediation in accordance with the Center's mediation procedures by a single mediator assigned by the Center. Each party shall pay half the cost of the Center's mediation services.

13.4. The parties agree to continue performing their duties under this Agreement, which are unaffected by the dispute, during the negotiation and mediation process.

13.5. If mediation does not resolve the parties' dispute, the parties may pursue their legal and equitable remedies.

13.6. A party's participation in or the results of any mediation or other non-binding dispute resolution process under this section or the provisions of this section shall not be construed as a waiver by a party of: (1) any rights, privileges, defenses, remedies or immunities available to a party; (2) a party's termination rights; or (3) other termination provisions or expirations dates of this Interlocal Agreement.

13.7. Nothing shall prevent either party from resorting to judicial proceedings if (a) good faith efforts to resolve a dispute under these procedures have been unsuccessful, or (b) interim resort to a court is necessary to prevent serious and irreparable injury to a party or to others.

#### **Section 14. Notice to Parties**

14.1. Notice to be effective under this Agreement must be in writing and received by the party against whom it is to operate. Notice is received by a party:

- When it is delivered to the party personally;
- On the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in Section 14.2 or 14.3 and signed for on behalf of the party; or
- Three business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified in Section 14.2 or 14.3.

14.2. CAPCOG's address is 6800 Burleson Road, Bldg. 310, Ste 165, Austin, TX 78744, Attention: Executive Director.

County's address is P.O. Box 471, Johnson City, TX, 78636

14.3. A party may change its address by providing notice of the change in accordance with Section 14.1.

**Section 15. Miscellaneous**

15.1. Each individual signing this Agreement on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken. The undersigned warrants that he or she:

Has actual authority to execute this Agreement on behalf of the governing body identified as the County in this agreement, and;

Verifies the governing body, by either minute order, resolution or ordinance approved this agreement as required by Texas Government Code 791, as amended.

15.2. This Interlocal Agreement shall be construed and interpreted in accordance with the laws of the State of Texas. Venue for all disputes hereunder shall be solely in Travis County.

15.3. This Agreement states the entire agreement of the parties, and may be amended only by a written amendment executed by both parties, except that any alterations, additions or deletions to the terms of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

15.4. The following attachments are part of this Agreement:

- Attachment A: Schedule of Deliverables
- Attachment B: (Guide to Grants as required by Office of Gov)
- Attachment C: Work Program

15.5. This Agreement is binding on and inures to the benefit of the parties' successors in interest and may not be assigned without the express written permission of CAPCOG.

15.6. This Agreement is executed in duplicate originals.

BLANCO COUNTY

CAPITAL AREA COUNCIL OF GOVERNMENTS

By

\_\_\_\_\_

By

\_\_\_\_\_

Name

\_\_\_\_\_

Betty Voights

\_\_\_\_\_

Title

\_\_\_\_\_

Executive Director

\_\_\_\_\_

Date

\_\_\_\_\_

Date

\_\_\_\_\_

Date of Governing Body approval:

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## ATTACHMENT A

### Schedule of Deliverables

#### I. Work Plan

To be developed and submitted to CAPCOG prior to procurement and no later than 90 days after execution of this Agreement. The Work Plan is to include contacts for project management, procurement plan, approximate schedule of the project, and milestones for implementation.

The Work Plan will be supplemented by any project schedule developed subsequent to procurement.

#### II. Requests for Reimbursement Schedule:

For Expenses to Date	Financial Report/Invoice Due to CAPCOG
12/31/2020	1/15/2021
3/31/2021	4/15/2021
6/30/2021	7/15/2021
9/30/2021	10/15/2021
12/31/2021	1/15/2022
3/31/2022	4/15/2022
6/30/2022	7/15/2022
8/31/2022	9/30/2022
Closeout of grant*	11/29/2022

\* Additional information may be required and due to CAPCOG for final closeout of the grant.

#### III. Progress Report Schedule

Progress reports are to be submitted in a format determined by CAPCOG. Biannual progress must include information on project measures to date, if the project is on track with budgeted approved expenditures, and if the project is on track to meet project goals.

Required Reports	Reporting Period	Due Date
Report 1: Biannual	September through February	3/1/2021
Report 2: Biannual	March through August	9/1/2021
Report 3: Biannual	September through February	3/1/2022
Report 4: Biannual**	March through August	9/8/2022

\*\*Completion of the project.